



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2023-0845]

RIN 1625-AA00

### Safety Zone; Marina Del Rey, California

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is adding two events to the table regarding “Southern California Annual Firework Events for the Los Angeles Long Beach Captain of the Port Zone”. The additions are temporary safety zones, one for the Marina del Rey Annual Boat Parade Fireworks Show and another for the Marina Del Rey New Year’s Eve Fireworks Display. Entry into these zones is prohibited during the annual events in order to provide for the safety of the waterway users and to keep them clear of potential harmful debris within the fallout zone.

**DATES:** This rule is effective without actual notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes of enforcement, actual notice will be used from December 20, 2023, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0845 in the search box and click "Search." Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email LCDR Kevin Kinsella, U.S. Coast Guard Sector Los Angeles-Long Beach; telephone (310) 521-3861, e-mail D11-SMB-SectorLALB-WWM@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

On October 5, 2023, Los Angeles County notified the Coast Guard that it will be conducting its annual boat parade firework display during the second weekend in December, as well as its New Year’s Eve fireworks display on December 31<sup>st</sup> each year. In both events, the fireworks will be launched from Marina del Rey’s South Jetty that runs between Ballona Creek and the entrance to Marina del Rey, CA. In response, on November 30, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Safety Zone; Marina Del Rey, California” (88 FR 83511). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended December 15, 2023, we received 2 supportive comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to ensure potential hazards associated with the fireworks are not a safety concern for anyone within a 1000-foot radius of the pyrotechnics platform during the annual December New Year’s events.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Los Angeles-Long Beach (COTP) has determined that potential hazards associated with the fireworks to be used in these annual fireworks events to be a safety concern for anyone within a 1000-foot radius of the pyrotechnics platform. The purpose of this rule is to ensure safety of vessels and the navigable waters within a 1000-foot radius of the fireworks platform before, during, and after the annual events for this year and future years.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received 2 comments in support of our NPRM published on November 30, 2023. Both commenters supported the need for the safety zone around the firework events to prevent injury and protect vessels from debris. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes two recurring safety zones that will be enforced prior, during, and after two annual firework events. The COTP is adding two events to Table 1 to 33 CFR 165.1125 for Southern California Annual Firework Events for the Los Angeles-Long Beach Captain of the Port zone. The temporary safety zones will take place annually in the Marina Del Rey Harbor Channel Entrance for approximately two hours each on the second weekend in December and on New Year's Eve, December 31<sup>st</sup>. The safety zone will cover all navigable waters within 1000 feet of the fireworks launch site on Marina del Rey's South Jetty that runs between Ballona Creek and the entrance to Marina del Rey, CA. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled annual fireworks displays. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

#### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around these safety zones before and after the fireworks displays, which will impact the entrance of Marina del Rey and Ballona Creek for a short two-hour window during the evenings when vessel traffic is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal Government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves two safety zones lasting a few hours each that will prohibit entry within 1000 feet of a fireworks launch platform in Marina del Rey, CA. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

**PART 165 – REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. In § 165.1125, amend Table 1 to §165.1125 by adding entries for items 14 and 15 to read as follows:

**§ 165.1125 Southern California Annual Firework Events for the Los Angeles Long Beach Captain of the Port zone.**

\* \* \* \* \*

**Table 1 to § 165.1125**

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**14. Holiday Fireworks, Los Angeles County**

Sponsor	Los Angeles County, CA.
Event Description	Fireworks Display.
Date	Second weekend in December.

Location	Marina Del Ray, CA.
Regulated Area	1000-foot radius zone around the firework display located approximately: 33°57'45"N, 118°27'21"W on the Marina Del Rey South Jetty.

### **15. New Years Eve Fireworks, Los Angeles County**

Sponsor	Los Angeles County, CA.
Event Description	Fireworks Display.
Date	December 31.
Location	Marina Del Rey, CA.
Regulated Area	1000-foot radius zone around the firework display located approximately: 33°57'45"N, 118°27'21"W on the Marina Del Rey South Jetty.

Dated: December 21, 2023.

T. P. McNamara,

Commander, U.S. Coast Guard,

Acting Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 2023-28632 Filed: 12/27/2023 8:45 am; Publication Date: 12/28/2023]